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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fifth session

SUMMARY RECORD OF THE 39th MEETING IN 1990

Held at the Palais des Nations, Geneva,
on Wednesday, 5 December 1990, at 10 a.m.

Chairman: Mr. KOUZNETSOV

CONTENTS

Organization of work (continued)

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (continued)

Ecuador (continued)

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The meeting was called to order at 10.20 a.m.

ORGANIZATION OF WORK (agenda item 4) (continued)

1. The CHAIRMAN announced that the Ambassador of Afghanistan had expressed a desire to address the Committee in connection with its decision concerning consideration of the initial report of Afghanistan on rights covered by articles 6-9 of the Covenant (E/1984/6/Add.12). If there was no objection, he would take it that the Committee acceded to that request.

2. It was so decided.

3. The CHAIRMAN drew attention to the report of the third meeting of persons chairing the human rights treaty bodies (A/45/636), the appendix to which contained a set of consolidated guidelines for the initial part of the reports of States parties. The consolidated guidelines should be read in conjunction with the general guidelines being drafted by Mr. Simma.

CONSIDERATION OF REPORTS (agenda item 7)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Ecuador (E/1986/3/Add.14, E/1988/5/Add.7) (continued)

4. At the invitation of the Chairman, Mr. Santos and Mr. Apunte (Ecuador) took places at the Committee table.

5. Mr. SANTOS (Ecuador), replying to questions brought up at the Committee's previous meeting, recalled that Ecuador had made a formidable transition from being one of the most backward countries of Latin America to its current status as a country with an intermediate level of development. Of course, many difficulties still remained: the colonialist structure that had prevailed throughout the country's history could not be overcome in a matter of decades. Moreover, the crushing debt burden, a political problem for which both creditors and debtors had to share responsibility, had curbed Ecuador's development efforts. Nevertheless, the progress that Ecuador had achieved, exemplified by the reduction in the illiteracy rate and other significant social developments, demonstrated the country's commitment to fulfilling its obligations under the Covenant.

6. Mr. APUNTE (Ecuador), replying to a question on the way in which the Covenant was incorporated in internal legislation, said that article 59 of the Constitution provided for treaties to be subjected to the same approval procedure as legislation. The text was submitted to the legislature for consideration in two readings and, if adopted, was sent to the President for ratification. It was then published in the Registro Oficial, whereupon it acquired the status of a law and could be invoked before the courts.

7. Mr. SANTOS (Ecuador), replying to a query on special courts for juveniles, said that that institution was one of the most important ways of handling the problems of young people, especially those in lower-income groups. The judges placed great emphasis on the social rehabilitation of juveniles and their reincorporation in society. Such courts could be found in all major cities.

8. Ecuador had been one of the first countries in Latin America to legalize divorce, which was becoming more and more frequent. It took the view that severing the bond of matrimony did not always have adverse effects: it could serve as a means of achieving more harmonious relations among people, and consequently within society, and it was an option that was particularly useful to women. Underdevelopment was often accompanied by discrimination against women, and the problem of machismo existed in Ecuador, as it did in all Latin American countries.

9. Concerning the inflation rate, he said that, historically, Ecuador had been among the most financially stable countries in Latin America. Inflation had emerged only with the discovery of hydrocarbon deposits, which had attracted a torrent of petrodollars that the country had lacked the capacity to absorb. The resulting instability had been exacerbated by natural disasters, including massive flooding in 1982-1983 and a major earthquake in March 1987.

10. A sharp decline in oil prices had had a considerable impact on his country's economy. Like all Latin American countries, Ecuador had a huge external debt, amounting to $11 billion, which meant that its per capita debt was higher than its per capita income. Nevertheless, it had been able to avoid a high rate of inflation by pursuing a resolute structural adjustment policy. Furthermore, despite its various problems, Ecuador had not reduced its spending in the social sector.

11. The fact that the hospitals were underutilized meant that, despite the steps taken by his Government, people were dying without having taken full advantage of the hospital facilities offered. An effort was therefore being made in his country to improve and develop coverage of health facilities in the information media.

12. Although social violence existed in Ecuador, it was at a much lower level than in neighbouring countries. In that regard, he said that there were some rebellious groups of young persons who believed that they could solve all of Ecuador's problems and had caused a number of casualties. They had had contacts with the President, who had told them that the Government was prepared to assume its responsibility and tackle the problems involved. As a result, the groups had laid down their arms and had held further talks. Social problems had to be solved in a democratic manner and, in that connection, he recalled that the members of a military detachment had recently been taken prisoner by some indigenous persons. The soldiers had not fired any shots. The Government had entered into a dialogue with the captors and had called for the release of the detachment. A political solution had been found to the problem.

13. His country, which had a population consisting of several ethnic groups, followed a policy of avoiding any kind of discrimination. However, some discrimination did exist and efforts were being made to eliminate it. Of a population of some 10 million, about 1 million persons belonged to indigenous groups. With the discovery of oil deposits, those groups had suddenly been incorporated into modern civilization. However, they were having difficulty in adjusting and the Government was trying to improve their situation.

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14. The 1964 Agrarian Reform Act contained important provisions concerning land distribution and was aimed at putting an end to a kind of servitude. As a result, advances had been made in the social aspects of land tenure. The process of agricultural reform was being constantly reviewed in order to improve the living conditions of the peasants and develop the countryside.

15. In Ecuador, the public and private sectors of the health care system were co-ordinated. However, there were a number of suburban areas where health service coverage was inadequate because physicians and other medical personnel preferred to live in large cities.

16. Mr. APUNTE (Ecuador) said he wished to provide additional information concerning the hospital situation. The Government had launched a large-scale campaign to provide public health care for the marginal population. In that connection, in 1988-1989, approximately 361 community health care centres had been established in various marginal areas of the country.

17. Mr. SANTOS (Ecuador), continuing his statment, said that, despite the general progress achieved in the educational field, the illiteracy rate in the country remained high. At the primary education level, the school attendance rate in 1988 had been 65.4 per cent. Many students dropped out because of family problems and inadequate communications. However, it should be noted that the primary-school attendance rate exceeded that of many Latin American countries. Ecuador's main objectives in the educational field were to enhance the quality and efficiency of educational systems and to eliminate illiteracy.

18. Wages had declined owing to inflation. The Government was fighting against inflation because of the enormous damage it inflicted, particularly on those who had the least.

19. The housing situation in suburban areas was unsatisfactory, and public services such as drinking water, electric lighting and sewerage were inadequate. Moreover, there was a serious housing shortfall. Builders and investors complained that nothing could be constructed because tenants could not be evicted. Furthermore, the banks gave credit only to those who were solvent, which meant that the large proportion of the population with minimum means of support were unable to obtain credit. When marginal populations were lodged in unsatisfactory housing, those dwellings soon became slums.

20. Ecuador was one of the most mobile societies in the world in terms of internal migration, although there had been little upward mobility because of historical patterns linked mainly to the structure of agriculture, land tenure and land use. There were no major social demands, such as an agrarian revolution, by the masses because the extraordinary natural wealth and the flow of internal migration did not allow the population to organize itself to meet the challenges of social change.

21. With regard to the question of scholarships and grants, he said that the Ecuadorian Educational Credit and Fellowships Institute gave credit to needy Ecuadorians to enable them to pursue their studies.

22. With respect to emigration, he noted that large numbers of Ecuadorians had settled in New York in the 1950s. At the present time, a growing number of skilled persons were leaving the country. A substantial proportion of them went to Venezuela, which had the highest per capita income in Latin America.

23. There had been a new phenomenon in increased immigration, partly owing to the relatively stable social conditions obtaining in Ecuador. A recent discovery of fossil fuels in the north-east of the country had also attracted immigrants and internal migrants. Ecuador was not a nation founded on international migrant flows, as it had always been densely populated. Nevertheless, immigrants had played an important part in Ecuadorian society, particularly the group generally called the "Lebanese" - in reality, persons of Arab descent. Three of the five candidates in the forthcoming presidential election were of "Lebanese" origin. There were a considerable number of Chinese, mainly settled on the coast. That group had provided several members of Congress, which showed the absence of racial discrimination in Ecuador. More recently, there had also been a good deal of immigration from various Latin American countries where there was domestic unrest.

24. A number of members of the Committee had asked questions about birth control. The Ecuadorian Constitution assigned responsibility for population policy to the National Board Council. In the past, the country had been built up by the growth of its population. However, in view of the present density of population and the extent of abject poverty, it was plain that changes were necessary. Although the Government recognized that the decision whether or not to found a family must rest with the individuals concerned, health centres currently offered family planning services, and contraceptive devices were available in pharmacies and medicine distribution centres. The majority of Ecuadorians belonged to the Roman Catholic Church, but the Church itself was divided as to the shades of meaning it attributed to the universally accepted principle of the right to life. AIDS was a new phenomenon in Ecuador and the level of infection, according to the most recent survey, was still low. The Government was making use of the media to disseminate information about the disease and to recommend the use of condoms, although there was considerable prejudice against that practice.

25. The problem of abandoned children of whom there were many thousands, was extremely serious. The traffic in such children for international adoption was not widespread, but recent court cases proved its existence and the Government had had to take action to tighten up legislation on the subject. There was in fact a constant need to improve legislation in order to protect the weak. However, at the same time, a development ethic must be evolved to keep pace with the legal instruments, for otherwise short-term expedients would be preferred to tackling long-standing problems such as poverty at their roots.

26. Questions had been asked about maternity leave and the possibility of paternity leave on the birth of a child. Articles 153-156 of the Labour Code set out the provisions for maternity leave but, in a male-dominated society, fathers had perhaps been overlooked. It was true that many men remained at home to look after the children while their wives went out to work. Nevertheless, he did not think that social attitudes would support any changes in the Code for the time being.

27. With regard to questions about the machinery in Ecuador to deal with international assistance, he recalled that Ecuador had been a pioneer in Latin America in the area of economic planning, having set up a National Economic Planning Board as early as 1954. A committee had been established to

co-ordinate international assistance which brought together the National Development Board, the National Economic Planning Board, the Ministry of Foreign Affairs and the sector concerned, such as health or industry, in order to make optimum use of the aid offered. The Committee for the Co-ordination of International Assistance acted as a focal point: for example, Ecuador produced too many doctors and engineers but it required experts from abroad to deal with AIDS.

28. Ecuador also had a Foreign Debt Commission, the successor of the Foreign Credit Commission, which had done good work until the oil boom had made it fashionable to say that debt policy should be "aggressive". That policy had increased the foreign debt from $600 million to $11 billion and the country had become obsessed by the debt problem and the need to make structural adjustments. As a result, unemployment, which had for many years run at between 4 and 6 per cent, now stood at twice that figure and underemployment was also widespread. That in its turn had led to an increase in crime, including drug trafficking. The current policy of trade liberalization and the closing down of unprofitable industries should be applied more slowly in order to mitigate its social consequences.

29. Questions had also been asked about the National Council for Science and Technology, which was the counterpart to the National Development Board in science and technology matters. In spite of the many excellent technical education institutions in Ecuador, which turned out large numbers of competent graduates, there was a need for increased international co-operation. The Council had had many bilateral contacts with other Latin American countries since the widespread introduction of democracy, and the increased frequency of meetings between Latin American presidents had resulted in high-level decision-making. The Council had also been enriched by contacts with the Academy of Sciences of the USSR, with which a pilot project had been instituted, and by similar contacts with United States institutions.

30. Mr. APUNTE (Ecuador), answering questions on Ecuadorian linguistic policy, said that article 1 of the Constitution stated that Spanish was the official language of Ecuador but that Quechua and other indigenous languages formed part of the cultural heritage of the country. In all civil and criminal courts, the services of interpreters were available if the parties did not understand Spanish. In addition, an intensive campaign to improve linguistic education had been initiated in 1988 and a National Directorate for the Intercultural and Linguistic Education of Indigenous Peoples had been set up within the Ministry of Education. There were 1,866 adult education centres and 1,523 schools offering bilingual instruction.

31. Mr. SANTOS (Ecuador) said that he had tried to make his replies objective and not to conceal realities. The challenge was to tackle and solve the problems that existed. There were, however, reasonable prospects for development in Latin America, although not for the spectacular expansion of the post-war years. Ecuador was prepared to fight for solidarity and growth at the domestic, regional and international levels.

32. Mr. APUNTE (Ecuador), replying to a question on the duration of maternity leave, said that article 153 of the Labour Code provided that a female worker

had the right to a total of eight weeks' leave - two weeks before giving birth and six weeks afterwards. She could not be dismissed from her employment during that period or for a year afterwards. For nine months after giving birth, she also had the right to two hours' leave per day to nurse her child.

33. Referring to a question about the protection of the unborn child, under article 61 of the Civil Code a judge could take steps ex officio to protect the life of an unborn child if he considered it to be in danger. There were comparable provisions in the Criminal Code prohibiting and punishing abortion. He had already given details of the cases in which abortion was permitted. There had been no suggestion that abortion should be allowed on the grounds of a child's deformity for instance. Indeed, he doubted whether such proposals would be entertained in such a profoundly Christian country as Ecuador.

34. As to the legal framework for the adoption of minors, it was hoped that regulations adopted in January 1990 establishing relevant machinery would provide a better means of control and would solve the problems that had arisen. Adoptive parents now had to report periodically on the position of adopted children.

35. Mr. SANTOS (Ecuador), referring to the question of the definition of the high-risk groups mentioned in Ecuador's report on articles 10-12 of the Covenant (E/1986/3/Add.14, para. 110), said that those groups included the people most affected by underdevelopment: individuals working in the informal sector, those at the margin of society, and abandoned or working children. Unfortunately, insufficient attention had been paid to those groups, but only large-scale social, economic, cultural and political change could overcome their problems, not assistance alone. Harmonious long-term development planning was essential if such change was to be achieved.

36. In trying to overcome economic and debt problems Ecuador must not forget the future generations and the aspiration to a just social system.

37. Mr. SIMMA said that his question about evictions had not been fully answered. Were there disparities between the law and its application? What was the situation concerning the protection of tenants against eviction and what was the number of tenants evicted?

38. Mrs. JIMENEZ BUTRAGUE O asked whether the statistics given by the representative of Ecuador for social security coverage included civil servants.

39. Mr. SANTOS (Ecuador), replying to Mr. Simma's question, said that there were legal procedures for eviction which varied according to the type of lease involved. Under the law a tenant could be required to leave if he did not comply with the terms of his lease or systematically failed to pay the rent. In such a case the landlord could take a tenant to court.

40. The law established the level of rents, which were sometimes frozen with the aim of curbing inflation. Thus tenants' interests were taken into account, but with the adverse consequence that there was little incentive to build housing in the private sector.

41. There were frequent lawsuits about rent, for many people were too poor to pay it. In the case of forcible eviction, the tenant was protected by the law and the Criminal and Civil Codes established procedures for granting compensation.

42. In reply to the question put by Mrs. Jimenez Butraqueño, he said that the social security coverage provided by the Ecuadorian Social Security Institute did indeed include the civil service. Unfortunately, only 23 per cent of the population received such coverage.

43. Regarding the concern expressed about the decline of the Ecuadorian Social Security Institute, he said that the Institute was one of Ecuador's most important institutions, a tripartite body bringing together the Government, employers and employees. It had, however, been weakened by growing indebtedness, but in view of its important role in housing and health care it was intended that the debt should be cleared off as quickly as possible.

44. The CHAIRMAN invited Mr. Konate to make his concluding observations on the reports of Ecuador.

45. Mr. KONATE said that the members of the Committee had expressed great appreciation of the quality of the Ecuador reports and had admired the frankness and objectivity with which the Ecuadorian delegation had described the implementation of the provisions of the Covenant. They had expressed serious concern at the situation in Ecuador, and especially over the heavy debt burden. The Committee had recalled the obligations of States parties under the Covenant whatever their level of development.

46. The Committee had noted the efforts made by the Government in certain areas, particularly education, but it regretted that the useful explanations in the written reports and oral statements had not been backed up by statistics which would have made it easier to assess the progress made by the Government of Ecuador.

47. With respect to the compatibility of labour legislation in Ecuador with article 10 of the Covenant, the Committee considered that the Government of Ecuador should bring its Labour Legislation into line with international standards and more particularly, harmonize it with ILO Convention No. 103 (1952) by increasing maternity leave to a minimum of 12 weeks instead of 8.

48. The CHAIRMAN said that other members would be able to make concluding observations on the reports of Ecuador at the afternoon meeting the following day.

The meeting rose at 12.50 p.m.